



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY-DOCKET NO.	CONFIRMATION NO.
10/070,112	03/25/2002	Garry Roy Olsen	1386/6	9549
25297	7590	03/25/2004		
JENKINS & WILSON, PA 3100 TOWER BLVD SUITE 1400 DURHAM, NC 27707				
EXAMINER SNIDER, THERESA T				
ART UNIT		PAPER NUMBER		
1744				

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/070,112

Applicant(s)

OLSEN, GARRY ROY

Examiner

Theresa T. Snider

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 10, 12 and 13 is/are allowed.
- 6) ☒ Claim(s) 11, 14-21 and 23-27 is/are rejected.
- 7) ☒ Claim(s) 6-9, 22 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/3/02</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 10''' (page 7, line 11). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities:

Exemplary of such:

Page 1, line 12, it is unclear as to what is meant by 'roads of road like surfaces';

Line 15, it is unclear as to what is meant by 'mains water'.

Page 7, line 10, 'incorporate' should be replaced with 'incorporated';

Line 14, 'is' should be inserted after '42'.

Page 8, line 26, 'steal' should be replaced with 'steel'.

Appropriate correction is required.

### ***Claim Objections***

3. Claims 6-9 are objected to because of the following informalities: Claim 6, line 1, 'a' should be inserted before 'filter'. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 11, 14-18 and 23-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claim 11, line 3, 'a' should be replaced with 'the'.

Claim 14, line 6, 'the hole' lacks proper antecedent basis.

Claim 16, line 3, 'a seal' should be replaced with 'the seal'.

Claim 23, line 1, the claim is dependent on itself.

Claim 24, line 2, 'upper planar' should be replaced with 'planar upper'.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 19 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brown, Jr..

Brown, Jr. discloses a base having a radially outer peripheral edge (fig. 2, #12).

Brown, Jr. discloses a recess formed centrally in the base (fig. 2, #20).

Art Unit: 1744

Brown, Jr. discloses a plurality of slots formed in the base that extend from the peripheral edge to the outer edge of the recess (fig. 2, #18).

Brown, Jr. discloses a passage having one end connected to the recess and the other end connected to a vacuum source (fig. 3, #29).

8. Claim 19 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ogilvie et al.('389).

Ogilvie et al.('389) discloses a base having a radially outer peripheral edge (fig. 4, #21).

Ogilvie et al.('389) discloses a recess formed centrally in the base (fig. 4, #29,31).

Ogilvie et al.('389) discloses a plurality of slots formed in the base that extend from the peripheral edge to the outer edge of the recess (fig. 4, #33).

Ogilvie et al.('389) discloses a passage having one end connected to the recess and the other end connected to a vacuum source (col. 2, lines 33-39).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 1744

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Jr..

Brown, Jr. discloses a similar suction head however fails to disclose the dimensions of the slots.

It would have been obvious to one of ordinary skill in the art to determine the most appropriate channel width in Brown, Jr. to allow for the most effective fluid flow and collection.

12. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogilvie et al.('389).

Ogilvie et al.('389) discloses a similar suction head however fails to disclose the dimensions of the slots.

It would have been obvious to one of ordinary skill in the art to determine the most appropriate channel width in Ogilvie et al.('389) to allow for the most effective fluid flow and collection.

### ***Double Patenting***

13. Claim 28 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 10.

When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim

Art Unit: 1744

to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

*Allowable Subject Matter*

14. Claims 1-10, 12-13 and 28 are allowed.

15. Claims 11, 14-18 and 23-27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. \*\*It is believed claim 23 should be dependent from claim 22, therefore the above statement. If this is incorrect, the statement will be modified.\*\*

16. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

17. The following is a statement of reasons for the indication of allowable subject matter: the prior art discloses a suction head having a base with a radially outer peripheral edge, a recess formed centrally in the base, a plurality of slots formed in the base extending from its peripheral edge to an edge of the recess and a passage connected at one end to the recess and at an other end to a vacuum source HOWEVER fails to disclose or fairly suggest the recess provided with a planar upper surface which is inclined relative to a horizontal reference plane.

Art Unit: 1744

*Conclusion*

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Muller, Todd et al. and Edlund disclose suction heads having a base with a centrally located recess. Schuster discloses a suction head having a base with a plurality of channels extending from a peripheral edge to a recess.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Wednesday-Friday (6:30AM-3:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Theresa T. Snider  
Primary Examiner  
Art Unit 1744

03/17/2004